



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Notice and Request for Comments

AGENCY: Surface Transportation Board.

ACTION: 30-day notice of request for approval: Complaints and Petitions.

SUMMARY: As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3519 (PRA), the Surface Transportation Board (STB or Board) gives notice that it has submitted a request to the Office of Management and Budget (OMB) for approval of the following information collections: (1) complaints under 49 U.S.C. 721, 10701-10707, 11101-11103, 11701-11707 (rail), and 14701-14707 (motor, water & intermediaries), and 15901-15906 (pipelines) and 49 CFR 1111;<sup>1</sup> (2) petitions for declaratory orders under 5 U.S.C. 554(e) and 49 U.S.C. 721; and (3) “catch all” petitions (for relief not otherwise specified) under 49 U.S.C. 721 and 49 CFR 1117. Under these statutory and regulatory sections, the Board provides procedures for persons to make a broad range of claims and to seek a broad range of remedies before the Board. The Board previously published a notice about this collection in the Federal Register on April 22, 2013, at 78 Fed. Reg. 23826 (60-day notice). That notice allowed for a 60-day public review and comment period. No comments were received.

The information collections relevant to these complaints and petitions are

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<sup>1</sup> In its 60-day notice, the Board inadvertently failed to include the statutory sections 49 U.S.C. 11101-11103, 14701-14707 and 15901-15906. Under these sections of the Interstate Commerce Act (49 U.S.C. 10101-16106) (ICA), persons may bring complaints against non-rail carriers.

described separately below. Regarding any of these collections, comments may now be submitted to OMB concerning: (1) the accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

## DESCRIPTION OF COLLECTIONS

### **Collection Number 1**

*Title:* Complaints under 49 CFR 1111.

*OMB Control Number:* 2140-00XX.

*STB Form Number:* None.

*Type of Review:* Existing collection in use without an OMB control number.

*Respondents:* Affected shippers, carriers, communities, and other persons that seek redress for alleged violations related to unreasonable rates, unreasonable practices, service issues, and other statutory claims.

*Number of Respondents:* 4.

*Frequency:* On occasion. In Fiscal Year (FY) 2012, there were 5 complaints of this type filed with the Board by respondents.

*Total Burden Hours* (annually including all respondents): 2,335 hours (estimated hours per complaint (467) X number of FY 2012 complaints (5)).

*Total “Non-hour Burden” Cost* (such as printing, mailing, and messenger costs): \$7,310 (estimated “non-hour burden” cost per complaint (\$1,462) X number of FY 2012 responses (5)).

*Needs and Uses:* Under the Board’s regulations, persons may file complaints before the Board seeking redress for alleged violations of provisions of the ICA. In the last few years, the most significant complaints filed at the Board have alleged that a railroad is charging unreasonable rates or that it is engaging in an unreasonable practice. See, e.g., 49 U.S.C §§ 10701, 10704, 11701, 14701, 15901. The collection by the Board of these and other complaints, and the agency’s action in conducting proceedings and ruling on the complaints, enables the Board to meet its statutory duty to grant relief from statutory violations (i.e., unreasonable rates and practices).

## **Collection Number 2**

*Title:* Petitions for declaratory orders.

*OMB Control Number:* 2140-00XX.

*STB Form Number:* None.

*Type of Review:* Existing collection in use without an OMB control number.

*Respondents:* Affected shippers, carriers, communities, and other persons that seek a declaratory order from the Board to terminate a controversy or remove uncertainty.

*Number of Respondents:* 7.

*Frequency:* On occasion. In FY 2012, there were 7 petitions of this type filed with the Board by respondents.

*Total Burden Hours* (annually including all respondents): 1,281 hours (estimated hours per petition (183) X number of petitions (7)).

*Total “Non-hour Burden” Cost* (such as printing, mailing, and messenger costs): \$8,652 (estimated “non-hour burden” cost per petition (\$1,236) X number of petitions (7)).

*Needs and Uses:* Under 5 U.S.C. 554(e) and 49 U.S.C. 721, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. Petitions for declaratory order cover a broad range of requests. In recent years, petitions filed with the Board have sought declaratory orders on issues such as whether the provisions of the ICA and the Board’s regulations preempt state and local laws (i.e., local permitting and land use laws) and even whether certain railroad practices are appropriate and legal. The collection by the Board of these petitions for declaratory order helps the Board to more efficiently meet its statutory duty to regulate the rail industry.

### **Collection Number 3**

*Title:* Petitions for relief not otherwise provided.

*OMB Control Number:* 2140-00XX.

*STB Form Number:* None.

*Type of Review:* Existing collections in use without an OMB control number.

*Respondents:* Affected shippers, carriers, communities, and other persons that seek relief from violations of the ICA that are not otherwise specifically provided for under the Board’s other regulatory provisions.

*Number of Respondents:* 6.

*Frequency:* On occasion. In FY 2012, there were 9 petitions of this type filed with the Board by respondents.

*Total Burden Hours* (annually including all respondents): 220.5 hours (estimated hours per petition (24.5) X number of petitions (9)).

*Total “Non-hour Burden” Cost* (such as printing, mailing, and messenger costs): \$630 (estimated “non-hour burden” cost per petition (\$70) X number of petitions (9)).

*Needs and Uses:* Under 49 U.S.C. 721 and 49 CFR 1117 (the Board’s catch all petition provision), shippers, carriers, and the public in general may seek relief (such as waivers of the Board’s regulations) not otherwise specifically provided for under the Board’s other regulatory provisions. Under § 1117.1, such petitions should contain three items: (a) a short, plain statement of jurisdiction, (b) a short, plain statement of petitioner’s claim, and (c) request for relief. The collection by the Board of these petitions enables the Board to more fully meet its statutory duty to regulate the rail industry by granting relief to respondents.

*Retention Period:* Information in these collections is maintained by the Board for 10 years, after which it is transferred to the National Archives as permanent records.

**DATE:** Comments on this information collection should be submitted by February 12, 2014.

**ADDRESSES:** Written comments should be identified as “Paperwork Reduction Act Comments, Surface Transportation Board” and should identify the collection(s) that the comments address. These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, Surface Transportation Board Desk Officer, by fax at (202) 395-5167; by mail at OMB, Room 10235, 725 17th Street, N.W., Washington, DC 20500; or by email to [oirasubmission@omb.eop.gov](mailto:oirasubmission@omb.eop.gov) or faxed to them at (202) 395-6974.FOR FURTHER

INFORMATION, CONTACT: Marilyn Levitt, (202) 245-0269. [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877-8339.] Relevant STB regulations are referenced below and may be viewed on the STB's website under E-Library > Reference: STB Rules, <[http://www.stb.dot.gov/stb/elibrary/ref\\_stbrules.html](http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html)>.

SUPPLEMENTARY INFORMATION: Under the PRA, a federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the Federal Register concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: January 8, 2014.

Jeffrey Herzig

Clearance Clerk

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